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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,178	11/21/2003	Ronald F. Hartung	49721/61202	3224

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SIDLEY AUSTIN BROWN & WOOD LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS, TX 75201

EXAMINER	
HRUSKOCI, PETER A	

ART UNIT	PAPER NUMBER
1724	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/719,178	HARTUNG ET AL.	
	Examiner	Art Unit	
	Peter A. Hruskoci	1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 and 6-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luke 6,077,441. Luke disclose (see col. 3 line 46 through col. 7 line 27) a method for separating suspended clay fines from water in a clay slurry substantially as claimed. The claims differ from Luke by reciting a step for introducing the polymeric flocculating agent into the clay settling area at a specific introduction point. It is submitted that the specific introduction point for introducing the polymeric flocculating agent into the well or settling area of Luke is considered patentably indistinguishable from the introduction point recited in the instant claims. It would have been obvious to one skilled in the art to modify the method of Luke by utilizing the recited introduction point, to aid in separating clay fines from water in the clay slurry. The specific sequence used to perform the introducing steps, and the concentration polymeric flocculating agent utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific clay slurry treated and results desired, absent a sufficient showing of unexpected results.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luke 6,077,441 as above, and further in view of Mewes et al. 3,932,275. The claims differ from Luke by reciting specific steps for measuring a flow rate and percent solids of the dilute clay stream, and adjusting the volume of dilution water. Mewes et al. disclose (see col. 1 lines 5-65, and col. 5 line 44 through col. 6 line 14) that it is known in the art to utilize monitoring equipment to

produce a constant feed rate of a mineral slime including clay, determine the percent of solids in the slime, and adjust the solids content in the slime with makeup or dilution water, to aid in dewatering the mineral slime. It would have been obvious to one skilled in the art to modify the method of Luke by utilizing the recited measuring and adjusting steps in view of the teachings of Mewes et al., to aid in separating clay fines from water in the clay slurry. The specific desired density of the clay slurry utilized, would have been an obvious matter of process optimization to one skilled in the art, depending on the specific clay slurry treated and results desired, absent a sufficient showing of unexpected results.

Applicants argue that the well of Luke is a specific structure and is not a lagoon or settlement area as in the claimed invention. It is submitted that claims 1 and 21 fail to recite a lagoon. It is noted that the clay slurry and polymeric flocculant are introduced into the well of Luke to produce a flocculated clay sediment and supernatant. It further submitted that the well of Luke is considered patentably indistinguishable from clay settling area recited in claims 1 and 21.

Applicants allege that using the claimed introduction point for introducing clay slurry and polymeric flocculating agent advantageously avoids the use of a special well as taught in Luke. It is submitted that clay slurry and polymeric flocculant appear to be introduced into the well of Luke through an introduction point. Furthermore, applicants have not provided sufficient factual evidence to support the above allegation.

Applicants' citation of case law has been carefully considered but is not deemed pertinent due to the different circumstances involved in the instant application.

Applicants' arguments concerning Mewes et al. are based on the propriety of Luke, which is deemed properly applied for reasons stated above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter A. Hruskoci
Primary Examiner
Art Unit 1724

11/14/05